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PATENT APPLICATION

ATTORNEY DOCKET NO. 200207103-1

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Dan Scott JOHNSON

Confirmation No.: 5685

Application No.: 10/808,012

Examiner: Alam, Mushfikh I.

Filing Date: March 24, 2004

Group Art Unit: 2623

Title: AUDIO/VIDEO COMPONENT NETWORKING SYSTEM AND METHOD

Mail Stop Appeal Brief-Patents
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF APPEAL BRIEF

Transmitted herewith is the Appeal Brief in this application with respect to the Notice of Appeal filed on 12/07/2007.

☒ The fee for filing this Appeal Brief is $510.00 (37 CFR 41.20).

☐ No Additional Fee Required.

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

☐ (a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d)) for the total number of months checked below:

☐ 1st Month $120	☐ 2nd Month $460	☐ 3rd Month $1050	☐ 4th Month $1640

☐ The extension fee has already been filed in this application.

☒ (b) Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Please charge to Deposit Account 08-2025 the sum of $ 510. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees.

☒ A duplicate copy of this transmittal letter is enclosed.

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Signature: Cindy C. Dioso

Respectfully submitted,
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPEAL FROM THE APPELLEE TO THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of:	Dan Scott JOHNSON	Confirmation No.: 5685
Serial No.:	10/808,012	
Filing Date:	March 24, 2004	
Group Art Unit:	2623	
Appellee:	Alam, Mushfikh I.	
Title:	AUDIO/VIDEO COMPONENT NETWORKING SYSTEM AND METHOD	
Docket No.:	200207103-1	

MAIL STOP: APPEAL BRIEF PATENTS
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

APPEAL BRIEF

Appellant has appealed to the Board of Patent Appeals and Interferences from the decision of the Appellee mailed October 9, 2007, finally rejecting Claims 1-36. Appellant filed a Notice of Appeal on December 7, 2007. Appellant respectfully submits herewith this Appeal Brief with authorization to charge the statutory fee of $510.00.

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REAL PARTY IN INTEREST

The present application was assigned to Hewlett-Packard Development Company, L.P. as indicated by an assignment from the inventor recorded on July 8, 2004 in the Assignment Records of the United States Patent and Trademark Office at Reel 014828, Frame 0832. The real party in interest is Hewlett-Packard Development Company, LP, a limited partnership established under the laws of the State of Texas and having a principal place of business at 20555 S.H. 249 Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holdings, LLC.

RELATED APPEALS AND INTERFERENCES

There are no known appeals or interferences that will directly affect or be directly affected by or have a bearing on the Board's decision in this pending appeal.

STATUS OF CLAIMS

Claims 1-36 stand rejected to a final Office Action mailed October 9, 2007 (hereinafter the "Office Action"). Claims 1-36 are presented for appeal.

STATUS OF AMENDMENTS

No amendment has been filed subsequent to the mailing of the Final Office Action.

SUMMARY OF CLAIMED SUBJECT MATTER

Embodiments of the present invention as defined by independent Claim 1 are directed toward an audio/video (A/V) source component (16) comprising a processor (100) and a data manager (156) executable by the processor (100), the data manager (156) adapted to monitor presentation of A/V program data (32) requested by a user via a presentation device (14), the data manager (156) adapted to automatically retrieve A/V program data (202) related to the monitored A/V program data (32) from an archival storage system (34) in response to

presentation of the monitored A/V program data (32) to the user (at least at page 3, lines 28-32; page 4, lines 1-32; page 5, lines 1-27; page 6, lines 29-33; page 7, lines 1-14; page 17, lines 16-33; page 18, lines 1-33; page 19, lines 1-33; page 20, lines 1-33; page 21, lines 1-10; page 23, lines 22-33; page 24, lines 1-12; and figures 1, 5 and 7).

Embodiments of the present invention as defined by independent Claim 10 are directed toward an audio/video (A/V) source component (16) comprising means (100, 156, 180) for monitoring presentation of requested A/V program data (32) to a user via a presentation device (14) and means (100, 256, 180) for automatically retrieving A/V program data (202) related to the monitored A/V program data (32) from an archival storage system (34) in response to presentation of the monitored A/V program data (32) (at least at page 3, lines 28-32; page 4, lines 1-32; page 5, lines 1-27; page 6, lines 29-33; page 7, lines 1-14; page 17, lines 16-33; page 18, lines 1-33; page 19, lines 1-33; page 20, lines 1-33; page 21, lines 1-10; page 23, lines 22-33; page 24, lines 1-12; and figures 1, 5 and 7).

Embodiments of the present invention as defined by independent Claim 15 are directed toward an audio/video (A/V) component networking method comprising monitoring presentation of requested A/V program data (32) via a presentation device (14) and automatically retrieving A/V program data (202) related to the monitored A/V program data (32) from an archival storage system (34) in response to presentation of the monitored A/V program data (32) (at least at page 3, lines 28-32; page 4, lines 1-32; page 5, lines 1-27; page 6, lines 29-33; page 7, lines 1-14; page 17, lines 16-33; page 18, lines 1-33; page 19, lines 1-33; page 20, lines 1-33; page 21, lines 1-10; page 23, lines 22-33; page 24, lines 1-12; and figures 1, 5 and 7).

Embodiments of the present invention as defined by independent Claim 22 are directed toward an audio/video (A/V) source component (16) comprising a processor (100) and a data manager (156) executable by the processor (100), the data manager (156) adapted to receive A/V program data (32) for storage in memory (30), the data manager (156) adapted to determine whether A/V program data (32, 202) resides in memory (30) related to the received A/V program data (32) and, if related data (32, 202) resides in memory (30), automatically transfer either the received A/V program data (32) or the related A/V program data (32, 202) to an archival storage system (34) based on a broadcast sequence of the received A/V program data (32) and the related A/V program data (32, 202) (at least at page 3, lines 28-32; page 4,

lines 1-32; page 5, lines 1-27; page 6, lines 29-33; page 7, lines 1-14; page 17, lines 16-33; page 18, lines 1-33; page 19, lines 1-33; page 20, lines 1-33; page 21, lines 1-10; page 23, lines 22-33; page 24, lines 1-12; and figures 1, 5 and 7).

Embodiments of the present invention as defined by independent Claim 29 are directed toward an audio/video (A/V) component networking system (10) comprising a sink component (12) adapted to present A/V program data (32) to a user via a presentation device (14), and a source component (16) adapted to monitor presentation of the A/V program data (32) via the presentation device (14) by the sink component (12), the source component (16) adapted to automatically retrieve A/V program data (202) related to the presented A/V program data (32) from an archival storage system (34) in response to presentation of the presented A/V program data (32) (at least at page 3, lines 28-32; page 4, lines 1-32; page 5, lines 1-27; page 6, lines 29-33; page 7, lines 1-14; page 17, lines 16-33; page 18, lines 1-33; page 19, lines 1-33; page 20, lines 1-33; page 21, lines 1-10; page 23, lines 22-33; page 24, lines 1-12; and figures 1, 5 and 7).

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

1. Claims 1-3, 5, 10, 13-15, 17, 19-21, 29-30 and 33-35 were rejected under 35 U.S.C. 102(e) as being unpatentable over U.S. Patent Publication No. 2003/0066082 issued to Kliger et al. (hereinafter "*Kliger*").

2. Claims 4, 9, 12, 18, 22-24, 26-28 and 31 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Kliger* in view of U.S. Patent Publication No. 2005/0278819 issued to Knudson et al. (hereinafter "*Knudson*").

3. Claim 7 was rejected under 35 U.S.C. 103(a) as being unpatentable over *Kliger* in view of U.S. Patent No. 7,171,677 issued to Ochiai (hereinafter "*Ochiai*").

4. Claims 6, 8, 11, 16, 32 and 36 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Kliger* in view of U.S. Patent Publication No. 2002/0056098 issued to White (hereinafter *"White").*

5. Claim 25 was rejected under 35 U.S.C. 103(a) as being unpatentable over *Kliger* in view of *Knudson* and further in view of *White*.

ARGUMENT

A. Standard

1. 35 U.S.C. § 102

Under 35 U.S.C. § 102, a claim is anticipated only if each and every element as set forth in the claim is found in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 U.S.P.Q.2d 1051 (Fed. Cir. 1987); M.P.E.P. § 2131. In addition, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claims" and "[t]he elements must be arranged as required by the claim." *Richardson v. Suzuki Motor Co.*, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989); *In re Bond*, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990); M.P.E.P. § 2131.

2. 35 U.S.C. § 103

To establish a *prima facie* case of obviousness under 35 U.S.C. § 103, three basic criteria must be met: First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; second, there must be a reasonable expectation of success; and finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.2d 488, (Fed. Cir. 1991); M.P.E.P. § 2143. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Appellants' disclosure. *Id.* Further, the mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680 (Fed. Cir. 1990); M.P.E.P. § 2143.01. Additionally, not only must there be a suggestion to combine the functional or operational aspects of the combined references, but also the prior art is required to suggest both the combination of elements and the structure resulting from the combination. *Stiftung v. Renishaw PLC*, 945 F.2d 1173, 1183 (Fed. Cir. 1991). Moreover, where there is no apparent disadvantage present in a particular prior art reference, then generally there can be no motivation to combine the teaching

of another reference with the particular prior art reference. *Winner Int'l Royalty Corp. v. Wang*, 202 F.3d 1340, 1349 (Fed. Cir. 2000).

B. Argument

1. Rejection under 35 U.S.C. §102(e) in view of *Kliger*

a. Claims 1-3 and 5

Claims 1-3 and 5 were rejected under 35 U.S.C. 102(e) as being unpatentable over *Kliger*. Of the rejected claims, Claim 1 is independent. Appellant respectfully submits that independent Claim 1, and Claims 2, 3 and 5 that depend therefrom, are patentable over *Kliger*.

Embodiments of the present invention are directed toward a source component (16) of an audio/video (A/V) networking system (10) (at least at page 4, lines 10-22, and figure 1). In some embodiments, the system (10) comprises a presentation device (14) for presenting A/V program data to a user (e.g., a television, a monitor, etc.) (at least at page 4, lines 10-22, and figure 1). In some embodiments, the source component (16) monitors for the presentation of A/V program data on the presentation device (14) and, in response to detecting that particular A/V program data has been presented to a user by the presentation device (14), automatically retrieves from an archival storage system (34) additional A/V program data that is related to the program data presented to the user (at least at page 20, lines 12-33; page 21, lines 1-2; and figure 7). Accordingly, independent Claim 1, for example, recites an "audio/video (A/V) source component" comprising "a data manager . . . adapted to monitor presentation of A/V program data . . . via a presentation device . . . [and] automatically retrieve A/V program data related to the monitored A/V program data from an archival storage system in response to presentation of the monitored A/V program data to the user."

In the Office Action, the Examiner refers to reference numeral 114 of *Kliger* as corresponding to the "data manager" recited by Claim 1 (Office Action, page 5). *Kliger* appears to disclose a home-network module (HNM) 28 that may be located in any of various rooms of a home and that acts as an interface between devices in a room (e.g., home entertainment devices and computer devices) and a demarcation point unit (DPU) 14 where the DPU 14 acts as an interface between a home network and an external network such as a cable television network (*Kliger*, paragraph 0041). *Kliger* also appears to disclose that reference numeral 114

refers to a modem of the HNM 28 (*Kliger*, paragraph 0077). Appellant respectfully submits that the modem 114 of the HNM 28 of *Kliger* does not appear to "monitor presentation of A/V program data . . . via a presentation device" nor "automatically retrieve A/V program data related to the monitored A/V program data from an archival storage system in response to presentation of the monitored A/V program data to the user" as recited by Claim 1 (emphasis added). Therefore, for at least this reason, *Kliger* does not anticipate Claim 1.

In the Office Action, the Examiner also refers to paragraphs 0079-0081 of *Kliger* (Office Action, page 2). In this regard, the Examiner asserts that the signals in *Kliger* are separated through the use of an RF unit 112 of *Kliger* and, once separated, the modem 114 accepts input from the A/D converters of *Kliger* (Office Action, page 2). Thus, the Examiner appears to equate nothing more than receiving input as "monitoring" (Office Action, page 2 ("the modem 114 accepts input (monitors)"; "the signals of which the modem has been accepting (monitoring)")). Appellant respectfully disagrees. The Examiner appears to misconstrue Claim 1 and, also, fails to consider Claim 1 as a whole. For example, although *Kliger* appears to disclose that the modem 114 of *Kliger* does receive input, *Kliger* does not appear to disclose or even suggest that accepting input at the modem 114 of *Kliger* is performed to determine whether A/V program data has been presented to a user. Nor does the modem 114 of *Kliger* "automatically retrieve A/V program data related to the monitored A/V program data from an archival storage system in response to presentation of the monitored A/V program data" as recited by Claim 1 (emphasis added). In the Office Action, the Examiner appears to indicate that the modem 114 of *Kliger* can receive a request from a user for certain programming (Office Action, pages 2 and 3). However, even if the modem 114 of *Kliger* receives a request for certain programming and communicates that request to a source of the programming, the modem 114 appears to thereafter act as a passive device that receives the programming and passes the programming on to another device. *Kliger* does not appear to disclose or even suggest that the modem 114 of *Kliger* "automatically retrieve[s]" related program data in response to presentation of the requested program data. Therefore, for at least these reasons, Appellant respectfully submits that independent Claim 1 is patentable over *Kliger*.

At least for the reasons indicated above, Appellant respectfully submits that Claim 1, and Claims 2, 3 and 5 that depend therefrom, are patentable over *Kliger*.

b. Claims 10, 13 and 14

Claims 10, 13 and 14 were rejected under 35 U.S.C. 102(e) as being unpatentable over *Kliger*. Of the rejected claims, Claim 10 is independent. Appellant respectfully submits that independent Claim 10, and Claims 13 and 14 that depend therefrom, are patentable over *Kliger*.

Claim 10 recites "means for monitoring presentation of requested A/V program data to a user via a presentation device" and "means for automatically retrieving A/V program data related to the monitored A/V program data from an archival storage system in response to presentation of the monitored A/V program data" (emphasis added). In the Office Action, the Examiner appears to assert that a master HNM 28 of *Kliger* meets the limitations of Claim 10 (Office Action, pages 5 and 6). Specifically, the Examiner refers to paragraph 0107 of *Kliger* as disclosing the limitations of Claim 10 (Office Action, pages 5 and 6). Appellant respectfully disagrees. *Kliger* appears to disclose that with a number of HNM 28 devices in a home, one of the HNM 28 devices is designated as a master HNM 28 (*Kliger*, paragraph 0107). *Kliger* recites that the functionality of the master HNM 28 includes:

> 1) assigning addresses to each of the HNMs 28 and devices in the home network; 2) synchronizing the HNMs 28; 3) managing isochronous and asynchronous transmissions over the backbone 20 to avoid collisions between transmitting HNMs 28; 4) allocating bandwidth to the HNMs 28; and 5) registering new HNMs 28.

(*Kliger*, paragraph 0107). Appellant respectfully submits that the HNM 28 of *Kliger*, regardless of whether the HNM 28 is designated as a "master" HNM 28, does not appear to "monitor[] presentation of requested A/V program data" by a presentation device nor "automatically retriev[e] A/V program data related to the monitored A/V program data from an archival storage system in response to presentation of the monitored A/V program data" as recited by Claim 10 (emphasis added). Therefore, for at least these reasons, Appellant respectfully submits that *Kliger* does not anticipate Claim 10.

Further, as indicated above in connection with independent Claim 1, *Kliger* appears to disclose a home-network module (HNM) 28 that may be located in any of various rooms of a home and that acts as an interface between devices in a room (e.g., home entertainment devices and computer devices) and a demarcation point unit (DPU) 14 where the DPU 14 acts

as an interface between a home network and an external network such as a cable television network (*Kliger*, paragraph 0041). *Kliger* also appears to disclose that reference numeral 114 refers to a modem of the HNM 28 (*Kliger*, paragraph 0077). Appellant respectfully submits that the modem 114 of the HNM 28 of *Kliger* does not appear to "monitor[] presentation of requested A/V program data" nor "automatically retriev[e] A/V program data related to the monitored A/V program data from an archival storage system in response to presentation of the monitored A/V program data" as recited by Claim 10 (emphasis added). Therefore, for at least this reason also, *Kliger* does not anticipate Claim 10.

In the Office Action, the Examiner also refers to paragraphs 0079-0081 of *Kliger* (Office Action, page 2). In this regard, the Examiner asserts that the signals in *Kliger* are separated through the use of an RF unit 112 of *Kliger* and, once separated, the modem 114 accepts input from the A/D converters of *Kliger* (Office Action, page 2). Thus, the Examiner appears to equate nothing more than receiving input as "monitoring" (Office Action, page 2 ("the modem 114 accepts input (monitors)"; "the signals of which the modem has been accepting (monitoring)")). Appellant respectfully disagrees. The Examiner appears to misconstrue Claim 10 and, also, fails to consider Claim 10 as a whole. For example, although *Kliger* appears to disclose that the modem 114 of *Kliger* does receive input, *Kliger* does not appear to disclose or even suggest that accepting input at the modem 114 of *Kliger* is performed to determine whether A/V program data has been presented to a user. Nor does the modem 114 of *Kliger* "automatically retriev[e] A/V program data related to the monitored A/V program data from an archival storage system in response to presentation of the monitored A/V program data" as recited by Claim 10 (emphasis added). In the Office Action, the Examiner appears to indicate that the modem 114 of *Kliger* can receive a request from a user for certain programming (Office Action, pages 2 and 3). However, even if the modem 114 of *Kliger* receives a request for certain programming and communicates that request to a source of the programming, the modem 114 appears to thereafter act as a passive device that receives the programming and passes the programming to another device. *Kliger* does not appear to disclose or even suggest that the modem 114 of *Kliger* "automatically retriev[es]" related program data in response to presentation of the requested program data. Therefore, for at least these reasons, Appellant respectfully submits that independent Claim 10 is patentable over *Kliger*.

At least for the reasons indicated above, Appellant respectfully submits that Claim 10, and Claims 13 and 14 that depend therefrom, are patentable over *Kliger*.

c. Claims 15, 17 and 19-21

Claims 15, 17 and 19-21 were rejected under 35 U.S.C. 102(e) as being unpatentable over *Kliger*. Of the rejected claims, Claim 15 is independent. Appellant respectfully submits that independent Claim 15, and Claims 17 and 19-21 that depend therefrom, are patentable over *Kliger*.

Claim 15 recites "monitoring presentation of requested A/V program data" and "automatically retrieving A/V program data related to the monitored A/V program data from an archival storage system in response to presentation of the monitored A/V program data" (emphasis added). In the Office Action, the Examiner appears to assert that a master HNM 28 of *Kliger* meets the limitations of Claim 15 (Office Action, page 7 (relying on the reasons set forth by the Examiner for Claim 10)). Specifically, the Examiner refers to paragraph 0107 of *Kliger* as disclosing the limitations of Claim 15 (Office Action, pages 5 and 6). Appellant respectfully disagrees. *Kliger* appears to disclose that with a number of HNM 28 devices in a home, one of the HNM 28 devices is designated as a master HNM 28 (*Kliger*, paragraph 0107). *Kliger* recites that the functionality of the master HNM 28 includes:

> 1) assigning addresses to each of the HNMs 28 and devices in the home network; 2) synchronizing the HNMs 28; 3) managing isochronous and asynchronous transmissions over the backbone 20 to avoid collisions between transmitting HNMs 28; 4) allocating bandwidth to the HNMs 28; and 5) registering new HNMs 28.

(*Kliger*, paragraph 0107). Appellant respectfully submits that the HNM 28 of *Kliger*, regardless of whether the HNM 28 is designated as a "master" HNM 28, does not appear to "monitor[] presentation of requested A/V program data" by a presentation device nor "automatically retriev[e] A/V program data related to the monitored A/V program data from an archival storage system in response to presentation of the monitored A/V program data" as recited by Claim 15 (emphasis added). Therefore, for at least these reasons, Appellant respectfully submits that *Kliger* does not anticipate Claim 15.

Further, as indicated above in connection with independent Claim 1, *Kliger* appears to disclose a home-network module (HNM) 28 that may be located in any of various rooms of a home and that acts as an interface between devices in a room (e.g., home entertainment devices and computer devices) and a demarcation point unit (DPU) 14 where the DPU 14 acts as an interface between a home network and an external network such as a cable television network (*Kliger*, paragraph 0041). *Kliger* also appears to disclose that reference numeral 114 refers to a modem of the HNM 28 (*Kliger*, paragraph 0077). Appellant respectfully submits that the modem 114 of the HNM 28 of *Kliger* does not appear to "monitor[] presentation of requested A/V program data" nor "automatically retriev[e] A/V program data related to the monitored A/V program data from an archival storage system in response to presentation of the monitored A/V program data" as recited by Claim 15 (emphasis added). Therefore, for at least this reason also, *Kliger* does not anticipate Claim 15.

In the Office Action, the Examiner also refers to paragraphs 0079-0081 of *Kliger* (Office Action, page 2). In this regard, the Examiner asserts that the signals in *Kliger* are separated through the use of an RF unit 112 of *Kliger* and, once separated, the modem 114 accepts input from the A/D converters of *Kliger* (Office Action, page 2). Thus, the Examiner appears to equate nothing more than receiving input as "monitoring" (Office Action, page 2 ("the modem 114 accepts input (monitors)"; "the signals of which the modem has been accepting (monitoring)")). Appellant respectfully disagrees. The Examiner appears to misconstrue Claim 15 and, also, fails to consider Claim 15 as a whole. For example, although *Kliger* appears to disclose that the modem 114 of *Kliger* does receive input, *Kliger* does not appear to disclose or even suggest that accepting input at the modem 114 of *Kliger* is performed to determine whether A/V program data has been presented to a user. Nor does the modem 114 of *Kliger* "automatically retriev[e] A/V program data related to the monitored A/V program data from an archival storage system in response to presentation of the monitored A/V program data" as recited by Claim 15 (emphasis added). In the Office Action, the Examiner appears to indicate that the modem 114 of *Kliger* can receive a request from a user for certain programming (Office Action, pages 2 and 3). However, even if the modem 114 of *Kliger* receives a request for certain programming and communicates that request to a source of the programming, the modem 114 appears to thereafter act as a passive device that receives the programming and passes the programming to another device. *Kliger* does not appear to disclose or even suggest

that the modem 114 of *Kliger* "automatically retriev[es]" related program data in response to presentation of the requested program data. Therefore, for at least these reasons, Appellant respectfully submits that independent Claim 15 is patentable over *Kliger*.

At least for the reasons indicated above, Appellant respectfully submits that Claim 15, and Claims 17 and 19-21 that depend therefrom, are patentable over *Kliger*.

d. Claims 29, 30 and 33-35

Claims 29, 30 and 33-35 were rejected under 35 U.S.C. 102(e) as being unpatentable over *Kliger*. Of the rejected claims, Claim 29 is independent. Appellant respectfully submits that independent Claim 29, and Claims 30 and 33-35 that depend therefrom, are patentable over *Kliger*.

In the Office Action, the Examiner refers to reference numeral 114 of *Kliger* as corresponding to the "data manager" recited by Claim 1 (Office Action, page 5 and 6). *Kliger* appears to disclose a home-network module (HNM) 28 that may be located in any of various rooms of a home and that acts as an interface between devices in a room (e.g., home entertainment devices and computer devices) and a demarcation point unit (DPU) 14 where the DPU 14 acts as an interface between a home network and an external network such as a cable television network (*Kliger*, paragraph 0041). *Kliger* also appears to disclose that reference numeral 114 refers to a modem of the HNM 28 (*Kliger*, paragraph 0077). Appellant respectfully submits that the modem 114 of the HNM 28 of *Kliger* does not appear to "monitor presentation of A/V program data via a presentation device" nor "automatically retrieve A/V program data related to the presented A/V program data from an archival storage system in response to presentation of the presented A/V program data" as recited by Claim 29 (emphasis added). Therefore, for at least this reason, *Kliger* does not anticipate Claim 29.

In the Office Action, the Examiner also refers to paragraphs 0079-0081 of *Kliger* (Office Action, pages 2 and 3). In this regard, the Examiner asserts that the signals in *Kliger* are separated through the use of an RF unit 112 of *Kliger* and, once separated, the modem 114 accepts input from the A/D converters of *Kliger* (Office Action, page 2). Thus, the Examiner appears to equate nothing more than receiving input as "monitoring" (Office Action, page 2 ("the modem 114 accepts input (monitors)"; "the signals of which the modem has been

accepting (monitoring)")). Appellant respectfully disagrees. The Examiner appears to misconstrue Claim 1 and, also, fails to consider Claim 1 as a whole. For example, although *Kliger* appears to disclose that the modem 114 of *Kliger* does receive input, *Kliger* does not appear to disclose or even suggest that accepting input at the modem 114 of *Kliger* is performed to determine whether A/V program data has been presented to a user. Nor does the modem 114 of *Kliger* "automatically retrieve A/V program data related to the presented A/V program data from an archival storage system in response to presentation of the presented A/V program data" as recited by Claim 29 (emphasis added). In the Office Action, the Examiner appears to indicate that the modem 114 of *Kliger* can receive a request from a user for certain programming (Office Action, pages 2 and 3). However, even if the modem 114 of *Kliger* receives a request for certain programming and communicates that request to a source of the programming, the modem 114 appears to thereafter act as a passive device that receives the programming and passes the programming to another device. *Kliger* does not appear to disclose or even suggest that the modem 114 of *Kliger* "automatically retrieve[s]" related program data in response to presentation of the requested program data. Therefore, for at least these reasons, Appellant respectfully submits that independent Claim 29 is patentable over *Kliger*.

At least for the reasons indicated above, Appellant respectfully submits that Claim 29, and Claims 30 and 33-35 that depend therefrom, are patentable over *Kliger*.

2. Rejection under 35 U.S.C. §103(a) in view of *Kliger* and *Knudson*

a. Claims 4, 9, 12, 18, 22-24, 26-28 and 31

Claims 4, 9, 12, 18, and 31 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Kliger* in view of *Knudson*.

Claims 4, 9, 12, 18 and 31 depend respectively from independent Claims 1, 10, 15 and 29. Appellant repeats and incorporates herein the arguments presented above in connection with respective independent Claims 1, 10, 15 and 29 such that *Kliger* does not disclose or even suggest all the limitations of respective Claims 1, 10, 15 and 29 and, therefore, *Kliger* does not disclose or even suggest all the limitations of Claims 4, 9, 12, 18 and 31 which depend from respective Claims 1, 10, 15 and 29. Further, the Examiner does not rely on *Knudson* to remedy, nor does *Knudson* appear to remedy, at least the deficiencies of *Kliger* indicated

above. Therefore, for at least this reason, Claims 4, 9, 12, 18 and 31 are patentable over *Kliger* in view of *Knudson*.

b. Claims 22-24 and 26-28

Claims 22-24 and 26-28 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Kliger* in view of *Knudson*. Of the rejected claims, Claim 22 is independent. Appellant respectfully submits that independent Claim 22, and Claims 23, 24 and 26-28 that depend therefrom, are patentable over *Kliger* and *Knudson*.

Independent Claim 22 recites "a data manager executable by the processor . . . [and] adapted to receive A/V program data for storage in memory, the data manager adapted to determine whether A/V program data resides in memory related to the received A/V program data and, if related data resides in memory, automatically transfer either the received A/V program data or the related A/V program data to an archival storage system based on a broadcast sequence of the received A/V program data and the related A/V program data" (emphasis added). In the Office Action, the Examiner acknowledges that *Kliger* fails to disclose at least the above-referenced limitations of Claim 22 (Office Action, page 8). However, the Examiner asserts that *Knudson* teaches the above-referenced limitations of Claim 22 and that it would have been obvious to modify *Kliger* with the purported teachings of *Knudson* to arrive at Appellant's Claim 22 (Office Action, pages 8 and 9). Appellant respectfully disagrees.

Knudson appears to disclose a system or set-top box configured to display a user interface in the form of a displayed program record screen to enable a user to input a request to schedule recording of a particular program, a program series and/or particular episodes of a program series (*Knudson*, paragraphs 0084, 0085 and 0087). *Knudson* also appears to disclose that such requests to record a program may be stored on the set-top box or, in a client-server architecture, performed by the server (*Knudson*, paragraph 0087). *Knudson* further appears to disclose that the *Knudson* system can search an existing database for all programs and episodes matching criteria specified by a user, schedule a recording for each matching program or episode, and send recording control signals to a videocassette recorder to direct the videocassette recorder to initiate recording of the program or series episode at the proper recording time (*Knudson*, paragraph 0087). *Knudson* also appears to disclose that the recording device may also be a hard disk (*Knudson*, paragraph 0046). In the Office Action, the

Examiner appears to consider the hard disk of *Knudson* as corresponding to both the "memory" and the "archival storage system" recited by Claim 22 (Office Action, page 9), which is an improper claim construction. For example, the Examiner states in the Office Action that the device 24 of *Knudson* receives program data "for storage in memory (e.g. harddisk)" and that if "related data" resides in the memory, the device 24 of *Knudson* automatically transfers the received A/V program data or the related data "to an archival storage system (e.g. harddisk)" (Office Action, page 9). Thus, for at least this reason, *Knudson* does not remedy the deficiencies of *Kliger*.

Moreover, Claim 22 recites that the "data manager is adapted to receive A/V program data" and "determine whether A/V program data resides in memory related to the received A/V program data" and, if so, "automatically transfer either the received A/V program data or the related A/V program data to an archival storage system" (emphasis added). The *Knudson* system appears to be described as configurable in two different ways: 1) a client-server architecture where a server processes requests to schedule recording of a particular program; or 2) a local architecture where a set-top box processes requests to schedule recording of a particular program (*Knudson*, paragraph 0087). In the client-server architecture of *Knudson*, the server processes the request to record a particular program and then transmits control signals to a recording apparatus to direct the apparatus to record the program at the appropriate time (*Knudson*, paragraph 0087). Thus, in the client-server architecture of *Knudson*, not only is there no "automatic transfer" of any data (the program is recorded at the appropriate time), once data is received and recorded by the recording apparatus of *Knudson*, data is not thereafter transferred "to an archival storage system" as recited by Claim 22. Additionally, in the local architecture setup of the *Knudson* system, there is no "automatic transfer" of any data (the program is recorded at the appropriate time), nor is any data received and recorded by the set-top box thereafter transferred "to an archival storage system" as recited by Claim 22. Accordingly, even if *Kliger* and *Knudson* are combined as suggested by the Examiner, the resulting combination still fails to disclose, teach or suggest the limitations of Claim 22. Therefore, for at least these reasons, Claim 22 is allowable over the cited references.

At least for the reasons indicated above, Appellant respectfully submits that Claim 22, and Claims 23, 24 and 26-28 that depend therefrom, are patentable over *Kliger* and *Knudson*.

3. Rejection under 35 U.S.C. §103(a) in view of *Kliger* and *Ochiai*

Claim 7 was rejected under 35 U.S.C. 103(a) as being unpatentable over *Kliger* in view of *Ochiai*.

Claim 7 depends from independent Claim 1. Appellant repeats and incorporates herein the arguments presented above in connection with independent Claim 1 such that *Kliger* does not disclose or even suggest all the limitations of Claim 1 and, therefore, *Kliger* does not disclose or even suggest all the limitations of Claim 7 which depends from Claim 1. Further, the Examiner does not rely on *Ochiai* to remedy, nor does *Ochiai* appear to remedy, at least the deficiencies of *Kliger* indicated above. Therefore, for at least this reason, Claim 7 is patentable over *Kliger* in view of *Ochiai*.

4. Rejection under 35 U.S.C. §103(a) in view of *Kliger* and *White*

Claims 6, 8, 11, 16, 32 and 36 were rejected under 35 U.S.C. 103(a) as being unpatentable over *Kliger* in view of U.S. Patent Publication No. 2002/0056098 issued to *White* (hereinafter *"White")*.

Claims 6, 8, 11, 16, 32 and 36 depend respectively from independent Claims 1, 10, 15 and 29. Appellant repeats and incorporates herein the arguments presented above in connection with respective independent Claims 1, 10, 15 and 29 such that *Kliger* does not disclose or even suggest all the limitations of respective Claims 1, 10, 15 and 29 and, therefore, *Kliger* does not disclose or even suggest all the limitations of Claims 6, 8, 11, 16, 32 and 36 which depend from respective Claims 1, 10, 15 and 29. Further, the Examiner does not rely on *White* to remedy, nor does *White* appear to remedy, at least the deficiencies of *Kliger* indicated above. Therefore, for at least this reason, Claims 6, 8, 11, 16, 32 and 36 are patentable over *Kliger* in view of *White*.

5. Rejection under 35 U.S.C. §103(a) in view of *Kliger, Knudson* and *White*

Claim 25 was rejected under 35 U.S.C. 103(a) as being unpatentable over *Kliger* in view of *Knudson* and further in view of *White*.

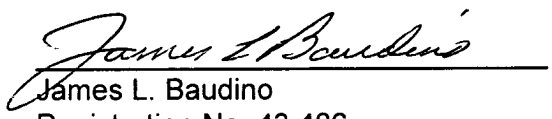
Claim 25 depends from independent Claim 22. Appellant repeats and incorporates herein the arguments presented above in connection with independent Claim 22 such that neither *Kliger* nor *Knudson*, alone or in combination, discloses or even suggests all the limitations of Claim 22 and, therefore, the combination of *Kliger* and *Knudson* does not disclose or even suggest all the limitations of Claim 25 which depends from Claim 22. Further, the Examiner does not rely on *White* to remedy, nor does *White* appear to remedy, at least the deficiencies of *Kliger* and *Knudson* indicated above. Therefore, for at least this reason, Claim 25 is patentable over *Kliger* in view of *Knudson* and *White*.

CONCLUSION

Appellant has demonstrated that the present invention as claimed is clearly distinguishable over the art cited of record. Therefore, Appellant respectfully requests the Board of Patent Appeals and Interferences to reverse the final rejection of the Examiner and instruct the Examiner to issue a notice of allowance of all claims.

The Commissioner is authorized to charge the statutory fee of $510.00 to Deposit Account No. 08-2025 of Hewlett-Packard Company. Although no other fee is believed due, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 08-2025 of Hewlett-Packard Company.

Respectfully submitted,



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CLAIMS APPENDIX

1. An audio/video (A/V) source component, comprising:

a processor; and

a data manager executable by the processor, the data manager adapted to monitor presentation of A/V program data requested by a user via a presentation device, the data manager adapted to automatically retrieve A/V program data related to the monitored A/V program data from an archival storage system in response to presentation of the monitored A/V program data to the user.

2. The component of Claim 1, wherein the data manager is adapted to transmit the monitored A/V program data to a sink component coupled to the presentation device.

3. The component of Claim 1, wherein the data manager is adapted to receive a request for the monitored A/V program data from a sink component coupled to the presentation device.

4. The component of Claim 1, wherein the data manager is adapted to identify the related A/V program data via a recordation time of the monitored A/V program data.

5. The component of Claim 1, wherein the data manager is adapted to identify the related A/V program data via header data of the monitored A/V program data.

6. The component of Claim 1, wherein the data manager is adapted to automatically transfer the monitored A/V program data to the archival storage system if a presentation time for the monitored A/V program data exceeds a predetermined period.

7. The component of Claim 1, wherein the data manager is adapted to automatically transfer the monitored A/V program data to the archival storage system based on a memory capacity.

8. The component of Claim 1, wherein the archival storage system comprises an optical media storage system.

9. The component of Claim 1, wherein the data manager is adapted to determine whether A/V program data related to the monitored A/V program data resides in the archival storage system.

10. An audio/video (A/V) source component, comprising:

means for monitoring presentation of requested A/V program data to a user via a presentation device; and

means for automatically retrieving A/V program data related to the monitored A/V program data from an archival storage system in response to presentation of the monitored A/V program data.

11. The component of Claim 10, further comprising means for automatically transferring the monitored A/V program data to the archival storage system if a presentation time for the monitored A/V program data exceeds a predetermined period.

12. The component of Claim 10, further comprising means for identifying the related A/V program data via a recordation time of the monitored A/V program data.

13. The component of Claim 10, further comprising means for identifying the related A/V program data via header data associated with the monitored A/V program data.

14. The component of Claim 10, further comprising means for transmitting the monitored A/V program data to a sink component coupled to the presentation device.

15. An audio/video (A/V) component networking method, comprising:

monitoring presentation of requested A/V program data via a presentation device; and

automatically retrieving A/V program data related to the monitored A/V program data from an archival storage system in response to presentation of the monitored A/V program data.

16. The method of Claim 15, further comprising automatically transferring the monitored A/V program data to the archival storage system if a presentation time associated with the monitored A/V program data exceeds a predetermined period.

17. The method of Claim 15, further comprising identifying the related A/V program data via header data associated with the monitored A/V program data.

18. The method of Claim 15, further comprising identifying the related A/V program data via a recordation time associated with the monitored A/V program data.

19. The method of Claim 15, further comprising transmitting the monitored A/V program data to a sink component coupled to the presentation device.

20. The method Claim 15, further comprising receiving a request for the monitored A/V program data from a sink component coupled to the presentation device.

21. The method of Claim 15, further comprising determining whether A/V program data related to the monitored A/V program data resides in the archival storage system.

22. An audio/video (A/V) source component, comprising:

a processor; and

a data manager executable by the processor, the data manager adapted to receive A/V program data for storage in memory, the data manager adapted to determine whether A/V program data resides in memory related to the received A/V program data and, if related data resides in memory, automatically transfer either the received A/V program data or the related A/V program data to an archival storage system based on a broadcast sequence of the received A/V program data and the related A/V program data.

23. The component of Claim 22, wherein the data manager is adapted to identify the related A/V program data based on header data associated with the received A/V program data.

24. The component of Claim 22, wherein the data manager is adapted to identify the related A/V program data based on a recordation time of the received A/V program data.

25. The component of Claim 22, wherein the archival storage system comprises an optical media storage system.

26. The component of Claim 22, wherein the data manager is adapted to automatically transfer the received A/V program data to the archival storage system if the received A/V program data represents a later broadcast.

27. The component of Claim 22, wherein the data manager is adapted to automatically transfer the related A/V program data to the archival storage system if the received A/V program data represents an earlier broadcast.

28. The component of Claim 22, wherein the data manager is adapted to initiate transmission of the received A/V program data to a sink component in response to a request received from the sink component.

29. An audio/video (A/V) component networking system, comprising:

a sink component adapted to present A/V program data to a user via a presentation device; and

a source component adapted to monitor presentation of the A/V program data via the presentation device by the sink component, the source component adapted to automatically retrieve A/V program data related to the presented A/V program data from an archival storage system in response to presentation of the presented A/V program data.

30. The system of Claim 29, wherein the source component is adapted to identify the related A/V program data based on header data associated with the presented A/V program data.

31. The system of Claim 29, wherein the source component is adapted to identify the related A/V program data based on a recordation time of the presented A/V program data.

32. The system of Claim 29, wherein the source component is adapted to return the related A/V program data from memory to the archival storage system if a presentation time associated with the presented A/V program data exceeds a predetermined period.

33. The system of Claim 29, wherein the source component is adapted to determine whether A/V program data related to the presented A/V program data resides in the archival storage system.

34. The system of Claim 29, wherein the source component is adapted to determine whether received A/V program data is related to A/V program data residing in the archival storage system.

35. The system of Claim 29, wherein the source component is adapted transmit the related A/V program data to the sink component in response to a request received by a user via the sink component.

36. The system of Claim 29, wherein the archival storage system comprises an optical media storage system.

EVIDENCE APPENDIX

None

RELATED PROCEEDINGS APPENDIX

None